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8 HSBC BANK USA et al.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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10 Plaintiffs,
11 v.
12 FRANK A. PODESTA,
13 Defendant.
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16 Case No. C-12-02646-RMW
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**ORDER ADOPTING REPORT AND
RECOMMENDATION AND
REMANDING**

[Re Docket No. 3]

19 The court adopts the report and recommendation of Magistrate Judge Lloyd. Dkt. No. 3. No
20 objections were filed to the recommendation. Removal was not proper because there is no federal
21 question. The underlying action is only based on state law claims; defenses and counterclaims
22 asserted by the defendant under federal law are not sufficient. *See Vaden v. Discovery Bank*, 129 S.
23 Ct. 1262, 1272 (2009). Therefore, the court remands the case to the Santa Cruz County Superior
24 Court.

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26 Dated: April 11, 2013
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RONALD M. WHYTE
United States District Judge